

REMARKS

Claims 1-12 are pending and under examination in the subject application. By this amendment, applicants have amended the specification to correct a typographical error as noted by the examiner. Applicants maintain no issue of new matter is raised by this amendment.

Rejections under 35 U.S.C. 103(a)

Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 1-7 and 10-12 under 35 U.S.C. 103(a) as allegedly rendered obvious by Ebert (WO 96/19205) in view of Chiang (U.S. Patent No. 4,973,468) and further in view of Min (U.S. Patent No. 5,916,587).

Certain required elements of Ebert's device are not contained in the claimed device and, more importantly, are necessarily avoided by elements claimed in the subject invention. The claimed design provides an advantage in using fewer parts than required by Ebert, in particular avoiding the adhesive overlay and the use of a peel seal disc that are central to Ebert's design. As noted throughout the specification the adhesive layer of Ebert overlies the reservoir forming backing layer (see, e.g., page 1, lines 15-17; page 3, lines 28-29; page 5, lines 5-6; and Figures 1, 4, and 5). In contrast, the claimed device comprises an adhesive layer adhered to the backing member wherein the adhesive layer does not extend to the perimeter of the opening in said cover, but which allows a portion of the cover surrounding the perimeter of the opening to be exposed to define a cover sealing surface. Further Ebert's peel seal disc is a required cover over the agent permeable membrane and is removed as part of a subassembly with the release liner layer (see, in particular Ebert, page 6, lines 3-14). In contrast, the device of the subject invention contains a release liner covering which is releasably sealed to the sealing surface of the cover by a second seal, thereby

removing the need for a second membrane cover, represented by Ebert's peel seal. These defined elements of the claimed device are not disclosed or suggested in Ebert and are improvements over Ebert's design. In addition to the elements as broadly claimed in claim 1, the additional elements recited in claims 4 and 5 defining a barrier layer in the liner and adhesive layers, respectively, are not disclosed nor suggested by any of the references cited by the examiner.

Moreover, neither Chiang nor Min cures these defects in Ebert. Min in fact teaches against the invention by requiring a drug containing matrix formed in part by an adhesive polymer (see, e.g., Col. 2, lines 37-38) which is contrary to the claimed invention's definition of the adhesive layer noted above, which provides for an opening that does not contact the area where the active agent(s) passes through. The Min design provides no opening but requires the drug pass through the adhesive polymer containing matrix. Chiang similarly teaches against by requiring an adhesive be applied to a drug containing matrix (see, e.g., Col. 7, lines 4-7). Because the secondary references Min and Chiang do not cure the defects noted above with respect to the primary reference Ebert, but in fact teach away from Ebert (and away the claimed invention), applicants respectfully submit that the one of ordinary skill in the art would not have combined their teachings to arrive at the claimed invention. Accordingly, applicants respectfully request that rejection under 35 U.S.C. 103 be reconsidered and withdrawn.

Applicants also respectfully request the reconsideration and withdrawal of the rejection of claims 8 and 9 under 35 U.S.C. 103(a) as allegedly rendered obvious by Ebert, as applied to claims 1-7 and 10-12, further in view of Toppo (U.S. Patent No. 5,985,860).

Applicants repeat their remarks above about the defects in Ebert and note that Toppo does not address these defects as it does not describe any patch or drug containing reservoir technology. Applicants respectfully submit that the one of ordinary skill in the art would not have combined their teachings to arrive at the claimed invention. Accordingly, applicants respectfully request that rejection under 35 U.S.C. 103 be reconsidered and withdrawn.

Applicants also respectfully request the reconsideration and withdrawal of the rejection of claims 8 and 9 under 35 U.S.C. 103(a) as allegedly rendered obvious by Ebert, as applied to claims 1-7 and 10-12, further in view of Franke (WO 01/26637).

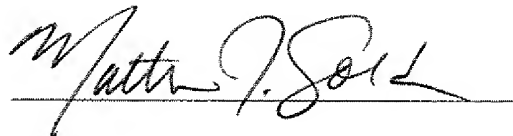
Applicants repeat their remarks above about the defects in Ebert and note that Franke also does not cure these defects. Applicants have obtained an English Translation of the Franke application and have enclosed a copy of the translation with this response. Similar to the disclosures of Min and Chiang above, Franke describes attaching a drug containing polymer matrix layer by means of an adhesive material on the matrix alone or in combination with a "special adhesive device" which would comprise the same materials as used for the polymer matrix. See page 3 of the translated Franke application. Applicants respectfully submit that the one of ordinary skill in the art would not have combined their teachings to arrive at the claimed invention. Accordingly, applicants respectfully request that rejection under 35 U.S.C. 103 be reconsidered and withdrawn.

CONCLUSION

In view of the remarks contained herein, applicants respectfully request the reconsideration and withdrawal of the rejections contained in the April 18, 2007 Office Action and respectfully submit that a Notice of Allowance for claims 1-12 is warranted. If the undersigned can be of assistance in advancing the application to allowance, please contact the undersigned at the number set forth below.

The Office is authorized to charge any requisite fees to Account Number 19-0365.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew J. Golden", is written over a horizontal line.

Matthew J. Golden
Reg. No. 35,161

Schering-Plough Corporation
Patent Department
Mail Stop K-6-1, 1990
2000 Galloping Hill Road
Kenilworth, NJ 07033-0530

Phone: (908) 298-4741
Fax: (908) 298-5388